

REMARKS

The Examiner rejected claims 10-16. Claim 10 has been cancelled herein without prejudice. Claim 17 has been added herein. Thus, claims 11-17 are pending.

Claims 11, 13, 15, and 16 have been amended herein. In particular, claim 11 has been amended herein to recite that the animal is a bovine animal and to recite that the mutation is a R238X mutation of the polypeptide sequence SEQ ID NO:15. Claims 13, 15, and 16 have been amended herein to remove the recitation that the FMO3 polypeptide is a polypeptide comprising at least a sequence having at least 85% identity with the polypeptide sequence SEQ ID NO:15. In addition, claims 15 and 16 have been amended herein to remove the phrase "under stringent conditions." New claim 17 recites that the nucleic acid sample is a sample of genomic DNA from the animal. Applicants' specification fully supports these amendments. For example, page 8, lines 20-23 disclose that a sample of genomic DNA from the animal can be used to detect a mutation in an FMO3 polypeptide. Thus, no new matter has been added.

In light of these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of claims 11-17.

Claim objections

The Examiner objected to claim 10 as being dependent on non-elected claims. Previous claim 10 was an independent claim. To further prosecution, however, claim 10 has been cancelled herein without prejudice. Thus, this objection is moot.

Rejections under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 10, 15, and 16 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

Applicants respectfully disagree. A person having ordinary skill in the art would have understood the subject matter recited in previous claims 10, 15, and 16. To further prosecution, however, claim 10 has been cancelled herein without prejudice. In addition, claims 15 and 16

have been amended herein to remove the phrase "under stringent conditions." Thus, claims 15 and 16 are clear and definite.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 15 and 16 under 35 U.S.C. §112, second paragraph.

Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 10-16 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description and enablement requirements.

Applicants respectfully disagrees. A person having ordinary skill in the art reading Applicants' specification would have appreciated that Applicants invented the previously claimed subject matter. In addition, a person having ordinary skill in the art reading Applicants' specification would have been able to carry out the previously claimed methods without undue experimentation. To further prosecution, however, claim 10 has been cancelled herein without prejudice. In addition, claim 11 has been amended herein to recite that the animal is a bovine animal and to recite that the mutation is a R238X mutation of the polypeptide sequence SEQ ID NO:15. Further, dependent claims 13, 15, and 16 have been amended herein to recite that the FMO3 polypeptide is the polypeptide sequence SEQ ID NO:15 as opposed to a polypeptide comprising at least a sequence having at least 85% identity with the polypeptide sequence SEQ ID NO:15. A person having ordinary skill in the art reading Applicants' specification would have appreciated that Applicants fully described and enabled the presently claimed subject matter. Thus, the presently claimed invention is adequately described and fully enabled.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 11-16 under 35 U.S.C. §112, first paragraph.

Rejections under 35 U.S.C. § 102

The Examiner rejected claims 10-16 under 35 U.S.C. § 102(b) as allegedly being anticipated by the Treacy *et al.* reference (WO 01/23603).

Applicants respectfully disagrees. Claim 11 recites a method for detecting a nucleic acid sequence comprising a mutation in the FMO3 gene of a bovine animal. In addition, claim 11, as amended, recites that the mutation is a R238X mutation of the polypeptide sequence SEQ ID NO:15. At no point does the Treacy *et al.* reference disclose or suggest such a method. Thus, the Treacy *et al.* reference does not anticipate the presently claimed invention.

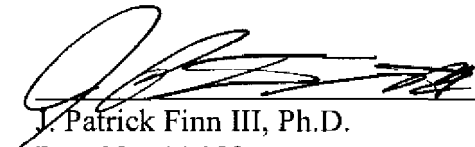
In light of the above, Applicants respectfully request withdrawal of the rejection of claims 11-16 under 35 U.S.C. § 102(b).

CONCLUSION

Applicant submits that claims 11-17 are in condition for allowance, which action is requested. The Examiner is invited to call the undersigned attorney at the telephone number below if such will advance prosecution of this application. The Commissioner is authorized to charge any fees or credit any overpayments to Deposit Account No. 06-1050.

Respectfully submitted,

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